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EXAMINER	
SHERMAN, STEPHEN G	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/748,686	FITZMAURICE ET AL.	
	Examiner	Art Unit	
	STEPHEN G. SHERMAN	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21 and 23-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *26* is/are allowed.

6)☒ Claim(s) *1-21,23-25 and 27-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 June 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to the amendment filed 26 June 2009. Claims 1-21 and 23-33 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-21 and 23-33 have been considered but are moot in view of the new ground(s) of rejection.

3. Applicant's arguments filed with respect to the 112, 1st paragraph rejection of claim 32 have been fully considered but they are not persuasive.

On page 11 of the response the Applicant states that the amendment to claim 32 overcomes the objection to the drawings, however, the claimed limitations are still not shown in the drawings.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations "a first graphical user interface located in a lower left display corner responsive to a first natural motion by a user associated with a first end of a range of the first natural motion; and

second graphical user interface located in a lower right display corner responsive to a second natural motion by the user associated with a second end of the range of the second natural motion;" of claim 32 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 11 and 24 are objected to because of the following informalities:

Claim 11 recites "the controls of the interface are arranged as one of a convex arc across the corner, a concave arc across the corner, a line across the corner, an array in the corner, a convex corner across the corner, a convex arc with a linear portion across the corner, a sectioned pie in the corner, a sectioned pie in the corner and extending across the display area, and a rotatable circle intersecting both sides of the corner" which relate to the interface shapes shown in Figures 17-26, however, claim 11 depends from claim 1 which claims an "arc-shaped persistent graphic" and thus the Applicant cannot claim in claim 11 that controls are arranged as, for example, a line across the corner as shown in Figure 18 or an array in the corner because then the interface does not have an arc shape as claimed.

Appropriate correction is required.

Claim 24 recites "further comprising minimizing the interface responsive to activation of a minimize control", however claim 20 from which claim 24 depends recites that the interface is a "persistent graphical user interface" this if it is minimized, it is not persistent.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-9, 11-14, 20-21, 23-24, 28-29, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durrani et al. (US 6,011,542) in view of Iwema et al. (US 7,058,902).

Regarding claim 1, Durrani et al. disclose an interface, comprising:

a graphical user interface area located in a lower left display corner for a right-handed user responsive to a natural motion by a user associated with an end of a range of the natural motion (Figure 3 shows graphical user interface 310 in a lower left display corner.) and, comprising:

an arc shaped persistent graphic starting near a first display edge and ending near a second display edge and defining the interface area where the arc is substantially perpendicular to a natural motion path of the natural motion (Figure 3 shows that the interface area has arc shaped persistent graphic 310.); and

controls initiating an action located in the interface area and accessible via the natural motion (Figure 3 shows controls 320 that initiate an action.).

Durrani et al. fail to explicitly teach the graphical user interface located in a lower right display corner for a left-handed user.

Iwema et al. disclose of an interface comprising a graphical user interface area located to the left for a right-handed user and located to the right for a left-handed user (Column 12, lines 1-6 explain that the handedness of a user is taken into account for the location of the menu, Which is to the right for left handed user sand to the left for right handed users.).

Therefore, it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to use the teachings of Iwema et al. with the interface located in a corner of the display taught by Durrani et al. in order to place the menu in the left hand corner for the right handed user and in the right hand corner for the left handed user such that the hand of the user does not obscure the context menu (See column 12, lines 11-14 of Iwema et al.).

Regarding claim 2, Durrani et al. and Iwema et al. disclose an interface as recited in claim 1, wherein the natural motion is a curve associated with movement of a hand of the user when an elbow of the user is pivoted (Since the interface is in the corner of the display, it is inherently "associated" with the movement of a hand of the user when an elbow of the user is pivoted.).

Regarding claim 3, Durrani et al. and Iwema et al. disclose an interface as recited in claim 2, wherein a location responsive to the natural motion of the user hand is defined by the natural motion passing through a substantial center area of a display area (Since the interface is in the corner of the display, it is inherently in a location responsive to the natural motion of the user hand is defined by the natural motion passing through a substantial center area of a display area.).

Regarding claim 4, Durrani et al. and Iwema et al. disclose an interface as recited in claim 1, wherein the natural motion is a curve associated with movement of a hand of the user when an elbow of the user is pivoted and one of a wrist of the user is rotated and fingers of the user are moved (Please refer to the rejection of claim 2, where if the user's entire arm past the elbow is moving then the wrist and fingers are moved as well.).

Regarding claim 5, please refer to the rejection of claim 1.

Regarding claim 6, Durrani et al. and Iwema et al. disclose an interface as recited in claim 1.

Durrani et al. also disclose wherein the graphic is a shape corresponding to an arc shaped curve and the controls are positioned in accordance with the curve (Figure 3).

Regarding claim 7, Durrani et al. and Iwema et al. disclose an interface as recited in claim 6.

Durrani et al. also disclose wherein a radius of the arc shaped curve is at least a radius of a menu of one of the controls (Figure 3).

Regarding claim 8, Durrani et al. and Iwema et al. disclose an interface as recited in claim 6.

Durrani et al. also disclose wherein a control closest to a display area is positioned along the curve at least a radius of a menu of the control from a display edge (Figure 3).

Regarding claim 9, Durrani et al. and Iwema et al. disclose an interface as recited in claim 1.

Durrani et al. also disclose wherein a menu associated with one of the controls has a layout responsive to the curve (Figure 3).

Regarding claim 11, Durrani et al. and Iwema et al. disclose an interface as recited in claim 1.

Durrani et al. also disclose wherein the interface is located in a lower left corner of a display area (Figure 3), and also disclose that the controls of the interface are arranged as one of a convex arc across the corner, a concave arc across the corner, a line across the corner, an array in the corner, a convex corner across the corner, a

convex arc with a linear portion across the corner, a sectioned pie in the corner, a sectioned pie in the corner and extending across the display area, and a rotatable circle intersecting both sides of the corner (Figure 3).

Regarding claim 12, please refer to the rejection of claim 1, where Durrani et al. also disclose wherein the controls are "associated" with an end of a range of a natural motion by the user where the approach arc is substantially perpendicular to a natural motion path of the natural motion and with the graphics of the controls being located responsive to one-shot function or menu pop-up function with a pop-up menu radius (Figure 3 shows that the controls have a "one-shot" function.).

Regarding claim 13, Durrani et al. and Iwema et al. disclose the interface as recited in claim 12.

Durrani et al. also disclose wherein the zone shape comprises one of a wedge, a curved sides triangle and a curved sided trapezoid (Figure 3).

Regarding claim 14, Durrani et al. and Iwema et al. disclose the interface as recited in claim 1.

Durrani et al. also disclose wherein the zones have non-coincident, dominant arc approach paths (Figure 3).

Regarding claims 20 and 27, please refer to the rejection of claims 1 and 12 and furthermore if the interface is located with controls as illustrated in the rejection of claims 1 and 12, then the controls would have been mapped as such and there would be a computer readable storage for controlling the mapping.

Regarding claim 21, this claim is rejected under the same rationale as claim 5.

Regarding claim 23, Durrani et al. and Iwema et al. disclose a method as recited in claim 20.

Durrani et al. also disclose wherein the mapping maps controls on the arc responsive to a function of the controls (Figure 3).

Regarding claim 24, Durrani et al. and Iwema et al. disclose a method as recited in claim 20.

Iwema et al. also disclose the method further comprising minimizing the interface responsive to activation of a minimize control (The menu is a pop-up menu, and thus when the user selection is over the menu/interace is minimized.).

Regarding claim 28, please refer to the rejection of claims 1, 5 and 12, where Durrani et al. shows a display in Figure 3, as also shown in Figure 1 of Iwema et al., and where there is a processor in the computer which will operate the display and will position the interface of the display (Figure 1 of Iwema et al.).

Regarding claim 29, please refer to the rejection of claim 23 where the positioning is inherently performed by the processor.

Regarding claim 31, please refer to the rejection of claim 1, and furthermore Figure 3 of Durrani et al. covers the limitation of "an arc shaped display edge intersecting menu bar interface graphic".

Regarding claim 33, this claim is rejected under the same rationale as claim 1.

9. Claims 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durrani et al. (US 6,011,542) in view of Iwema et al. (US 7,058,902) and further in view of Keely, Jr. et al. (US 6,337,698).

Regarding claim 25, Durrani et al. and Iwema et al. disclose a method as recited in claim 20.

Durrani et al. and Iwema et al. fail to teach of displaying a menu upon a touch input and allowing a user to select an item of the menu, displaying a menu and performing an interaction upon a dwell input, and performing a function upon a stroke input

Keely, Jr. et al. also disclose:

displaying a menu upon a touch input (see col. 6, lines 54-55) and allowing a user to select an item of the menu (Fig. 10, shows the path a user takes to select an item);

displaying a menu and performing an interaction upon a dwell input (col. 7, lines 50-57, where the pen leaving the surface can minimize the menu therefore allowing the pen to dwell on the surface allows the user to interactively maintain the display of the menu); and

performing a function upon a stroke input (col. 7, lines 27-30, where the user makes a selection via a stroke input).

Therefore, it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to use the inputting method taught by Keely, Jr. et al. with the interface method taught by the combination of Durrani et al. and Iwema et al. in order to allow for easy and intuitive user input into the computer system.

Regarding claim 30, please refer to the rejection of claim 25, where Keely, Jr. et al. also disclose an apparatus further comprising a stylus-based input system coupled to the processor and the display (col. 3, lines 49-50), and activating the controls responsive to a tap of a stylus on one of the controls (see col. 6, lines 54-55).

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durrani et al. (US 6,011,542) in view of Iwema et al. (US 7,058,902) and further in view of Kurtenbach (US 5,689,667).

Regarding claim 10, Durrani et al. and Iwema et al. disclose an interface as recited in claim 1.

Durrani et al. and Iwema et al. fail to explicitly teach a marking menu associated with one of the controls having a layout where a downward stroke brings up additional tool palettes and/or dialogs.

Kurtenbach discloses a marking menu associated with one of the controls has a layout where a downward stroke brings up additional tool palettes and/or dialogs (see col. 3, lines 35-60, where a user can bring up a new sub-menu, which constitutes a dialog, by making a stroke towards a menu item but not lifting up the pen).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Kurtenbach in the device taught by the combination of Durrani et al. and Iwema et al. to have a commonly known method of bringing up an a pop-up menu with a single stroke for allowing additional controls of the menu to be utilized.

11. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durrani et al. (US 6,011,542) in view of Iwema et al. (US 7,058,902) and further in view of Anderson et al. (US 5,828,360).

Regarding claim 15, please refer to the rejection of claim 1, and furthermore Durrani et al. and Iwema et al. fail to teach the controls comprising a tool control

providing a menu for selecting a drawing tool of the application, and a color control providing a menu for selecting paint color applied by a drawing tool of the application.

Anderson et al. disclose different categories of menu items in an arc-shaped menu (Fig. 3) and a menu including a tool control providing a menu for selecting a drawing tool of the application and a color control providing a menu for selecting paint color applied by a drawing tool of the application (Fig. 3, item 31c, see col. 5 lines 13-28, where the menu item 31c provides the sub-menu shown in the figure with the different drawing tools and for selecting the color.).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Anderson et al. in the menu of Durrani et al. and Iwema et al. in order to have different types of menu items in an arc-shaped menu in order to add the extra functions provided by the menu items and so that these menu items would be easily accessible to hand movements that a user can make and remember easily (see Anderson col. 2, lines 1-3).

Regarding claim 16, Durrani et al., Iwema et al. and Anderson et al. disclose an interface as recited in claim 15.

Anderson also discloses an interface with a minimize control, an edit control providing an undo function (Figure 3 shows an undo control included in the menu), and Iwema et al. also disclose a page control providing a page change function for drawing pages of the application (Figures 5 and 6) and a tool type control and providing a menu for selection a tool type of the application (Figure 6).

However, Durrani et al., Iwema et al. and Anderson et al. fail to teach the relative locations of each control as discussed in the claim. However, at the time of the invention it would have been obvious to a person of ordinary skill in the art to relocate the menu items as described in the claim since such a modification would have only involved a mere change in the location of the menu items. Applicants have not disclosed that the particular positioning of the menu items solves any stated problem, provides any advantage, or used for any particular purpose. Further, a change in location is generally recognized as being with the level of ordinary skill in the art, see In re Japiske, 86 USPQ 70 (CCPA 1950). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Pitroda, Miyashita et al., Selker and Anderson et al. to obtain the invention as specified in the above claim.

Regarding claim 17, Durrani et al., Iwema et al. and Anderson et al. disclose an interface as recited in claim 16.

Durrani et al. also disclose wherein the graphic comprises a arc-shaped band (Figure 3).

Regarding claim 18, Durrani et al., Iwema et al. and Anderson et al. disclose an interface as recited in claim 16.

Anderson et al. also disclose wherein pop-up menus pop-up in association with the selected control and at a distance from side and bottom edges of the graphic to

allow all menu commands to be displayed (Figure 3 shows that the menu 32 pops up when 31c is selected which allows all controls to be seen.).

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durrani et al. (US 6,011,542) in view of Iwema et al. (US 7,058,902) and further in view of Anderson et al. (US 5,828,360) and Kurtenbach (US 5,689,667).

Regarding claim 19, please refer to the rejection of claims 15 and 16 and furthermore Anderson et al. also disclose different categories of menu items in an arc-shaped menu (Fig. 3) and a menu including a tool control that provides a menu for selecting a drawing tool (Fig. 3, item 31c, see col. 5 lines 13-28, where the menu item 31c provides the sub-menu shown in the figure with the different drawing tools), a minimize control (Fig. 3, where the 'miniview' control is a type of minimize control), and an undo control (Fig. 3 shows an undo control included in the menu).

Durrani et al., Iwema et al. and Anderson et al. fail to teach a marking menu associated with one of the controls has a layout where a downward stroke brings up additional tool palettes and/or dialogs.

Kurtenbach discloses a marking menu associated with one of the controls has a layout where a downward stroke brings up additional tool palettes and/or dialogs (see col. 3, lines 35-60, where a user can bring up a new sub-menu, which constitutes a dialog, by making a stroke towards a menu item but not lifting up the pen).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Anderson et al. and Kurtenback in the menu of Durrani et al., Iwema et al. and Anderson et al. in order to have different types of menu items in an arc-shaped menu so that these menu items would be easily accessible to hand movements that a user can make and remember easily (see Anderson col. 2, lines 1-3) and to have a commonly known method of bringing up a pop-*up menu with a single stroke*.

However, Durrani et al., Iwema et al. and Anderson et al. nor Kurtenbach teach the location of the tools relative to each other. However, at the time of the invention it would have been obvious to a person of ordinary skill in the art to relocate the menu items as described in the claim since such a modification would have only involved a mere change in the location of the menu items. Applicants have not disclosed that the particular positioning of the menu items solves any stated problem, provides any advantage, or used for any particular purpose. Further, a change in location is generally recognized as being with the level of ordinary skill in the art, see In re Japiske, 86 USPQ 70 (CCPA 1950). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Pitroda, Miyashita et al., Selker, Anderson et al. and Kurtenbach to obtain the invention as specified in the above claim.

13. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durrani et al. (US 6,011,542) in view of Iwema et al. (US 7,058,902) and further in view of Sowden et al. (US 2003/0020687)

Regarding claim 32, please refer to the rejection of claim 1, and furthermore Durrani et al. and Iwema et al. fail to teach of having two graphical user interfaces, one in the lower right corner and one on the lower left corner, at the same time.

Sowden et al. disclose of an locating a user interface for a left hand of a user and an interface for a right hand of a user (Figure 1, 103 and also Figures 14 and 15).

Therefore, it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to use the teachings of having a different interface for each of the right and left hands as taught by Sowden et al. in the interface teachings taught by the combination of Durrani et al. and Iwema et al. such that there would be an graphical user interface like the one shown in Figure 3 of Durrani et al. in both the lower left and lower right corners in order to allow for the user to more quickly input information as opposed to the normal one handed input operation.

Allowable Subject Matter

14. Claim 26 is allowed.

15. The following is a statement of reasons for allowance:

Relative to independent claim 26, the major difference between the prior art of record (Selker, Pitroda, Keekly, Jr. et al., Ono, Anderson, Kurtenbach, Miyashita et al., Durrani et al., Iwema et al. and Sowden et al.) and the instant invention, is that said prior art does not teach a method wherein if a user is inking from a drawing canvas and the inking crosses into the menu, inking still occurs on the canvas.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHEN G. SHERMAN whose telephone number is (571)272-2941. The examiner can normally be reached on M-F, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stephen G Sherman/
Examiner, Art Unit 2629

/Amr Awad/
Supervisory Patent Examiner, Art Unit 2629

24 August 2009